

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 580
95TH GENERAL ASSEMBLY

Reported from the Committee on Jobs, Economic Development and Local Government, April 30, 2009, with recommendation that the Senate Committee Substitute do pass.

1405S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 287.090, RSMo, and to enact in lieu thereof two new sections relating to compensation for emergency personnel killed in the line of duty, with an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 287.090, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 287.090 and 287.243, to read as follows:

- 287.090. 1. This chapter shall not apply to:
- 2 (1) Employment of farm labor, domestic servants in a private home,
 - 3 including family chauffeurs, or occasional labor performed for and related to a
 - 4 private household;
 - 5 (2) Qualified real estate agents and direct sellers as those terms are
 - 6 defined in Section 3508 of Title 26 United States Code;
 - 7 (3) Employment where the person employed is an inmate confined in a
 - 8 state prison, penitentiary or county or municipal jail, or a patient or resident in
 - 9 a state mental health facility, and the labor or services of such inmate, patient,
 - 10 or resident are exclusively on behalf of the state, county or municipality having
 - 11 custody of said inmate, patient, or resident. Nothing in this subdivision is
 - 12 intended to exempt employment where the inmate, patient or resident was hired
 - 13 by a state, county or municipal government agency after direct competition with
 - 14 persons who are not inmates, patients or residents and the compensation for the
 - 15 position of employment is not contingent upon or affected by the worker's status
 - 16 as an inmate, patient or resident;
 - 17 (4) **Except as provided in section 287.243**, volunteers of a tax-exempt

18 organization which operates under the standards of Section 501(c)(3) of the
19 federal Internal Revenue Code, where such volunteers are not paid wages, but
20 provide services purely on a charitable and voluntary basis;

21 (5) Persons providing services as adjudicators, sports officials, or contest
22 workers for interscholastic activities programs or similar amateur youth programs
23 who are not otherwise employed by the sponsoring school, association of schools
24 or nonprofit tax-exempt organization sponsoring the amateur youth programs.

25 2. Any employer exempted from this chapter as to the employer or as to
26 any class of employees of the employer pursuant to the provisions of subdivision
27 (3) of subsection 1 of section 287.030 or pursuant to subsection 1 of this section
28 may elect coverage as to the employer or as to the class of employees of that
29 employer pursuant to this chapter by purchasing and accepting a valid workers'
30 compensation insurance policy or endorsement, or by written notice to the group
31 self-insurer of which the employer is a member. The election shall take effect on
32 the effective date of the workers' compensation insurance policy or endorsement,
33 or by written notice to the group self-insurer of which the employer is a member,
34 and continue while such policy or endorsement remains in effect or until further
35 written notice to the group self-insurer of which the employer is a member. Any
36 such exempt employer or employer with an exempt class of employees may
37 withdraw such election by the cancellation or nonrenewal of the workers'
38 compensation insurance policy or endorsement, or by written notice to the group
39 self-insurer of which the employer is a member. In the event the employer is
40 electing out of coverage as to the employer, the cancellation shall take effect on
41 the later date of the cancellation of the policy or the filing of notice pursuant to
42 subsection 3 of this section.

43 3. Any insurance company authorized to write insurance under the
44 provisions of this chapter in this state shall file with the division a memorandum
45 on a form prescribed by the division of any workers' compensation policy issued
46 to any employer and of any renewal or cancellation thereof.

47 4. The mandatory coverage sections of this chapter shall not apply to the
48 employment of any member of a family owning a family farm corporation as
49 defined in section 350.010, RSMo, or to the employment of any salaried officer of
50 a family farm corporation organized pursuant to the laws of this state, but such
51 family members and officers of such family farm corporations may be covered
52 under a policy of workers' compensation insurance if approved by a resolution of
53 the board of directors. Nothing in this subsection shall be construed to apply to

54 any other type of corporation other than a family farm corporation.

55 5. A corporation may withdraw from the provisions of this chapter, when
56 there are no more than two owners of the corporation who are also the only
57 employees of the corporation, by filing with the division notice of election to be
58 withdrawn. The election shall take effect and continue from the date of filing
59 with the division by the corporation of the notice of withdrawal from liability
60 under this chapter. Any corporation making such an election may withdraw its
61 election by filing with the division a notice to withdraw the election, which shall
62 take effect thirty days after the date of the filing, or at such later date as may be
63 specified in the notice of withdrawal.

287.243. 1. This section shall be known and may be cited as the
2 **"Line of Duty Compensation Act".**

3 2. As used in this section, unless otherwise provided, the
4 following words shall mean:

5 (1) "Air ambulance pilot", a person certified as an air ambulance
6 pilot in accordance with sections 190.001 to 190.245, RSMo, and
7 corresponding regulations applicable to air ambulances adopted by the
8 department of health and senior services, division of regulation and
9 licensure, 19 CSR 30-40.005 et seq.;

10 (2) "Air ambulance registered professional nurse", a person
11 licensed as a registered professional nurse in accordance with sections
12 335.011 to 335.096, RSMo, and corresponding regulations adopted by the
13 state board of nursing, 20 CSR 2200-4, et seq., who provides registered
14 professional nursing services as a flight nurse in conjunction with an
15 air ambulance program that is certified in accordance with sections
16 190.001 to 190.245, RSMo, and the corresponding regulations applicable
17 to such programs;

18 (3) "Emergency medical technician", a person licensed in
19 emergency medical care in accordance with standards prescribed by
20 sections 190.001 to 190.245, RSMo, and by rules adopted by the
21 department of health and senior services under sections 190.001 to
22 190.245, RSMo;

23 (4) "Firefighter", any person, including a volunteer firefighter,
24 employed by the state or a local governmental entity as an employer
25 defined under subsection 1 of section 287.030, or otherwise serving as,
26 a member or officer of a fire department either for the purpose of the
27 prevention or control of fire or the underwater recovery of drowning

28 victims;

29 (5) "Killed in the line of duty", when any person defined in this
30 section loses his or her life when:

31 (a) Death is caused by an accident or the willful act of violence
32 of another;

33 (b) The law enforcement officer, emergency medical technician,
34 air ambulance pilot, air ambulance registered professional nurse, or
35 firefighter is in the active performance of his or her duties in his or her
36 respective profession and there is a relationship between the accident
37 or commission of the act of violence and the performance of the duty,
38 even if the individual is off duty; the law enforcement officer,
39 emergency medical technician, air ambulance pilot, air ambulance
40 registered professional nurse, or firefighter is traveling to or from
41 employment; or the law enforcement officer, emergency medical
42 technician, air ambulance pilot, air ambulance registered professional
43 nurse, or firefighter is taking any meal break or other break which
44 takes place while that individual is on duty;

45 (c) Death is the natural and probable consequence of the injury;

46 (d) Death occurs within three hundred weeks from the date the
47 injury was received.

48 The term excludes death resulting from the willful misconduct or
49 intoxication of the law enforcement officer, emergency medical
50 technician, air ambulance pilot, air ambulance registered professional
51 nurse, or firefighter. The division of workers' compensation shall have
52 the burden of proving such willful misconduct or intoxication;

53 (6) "Law enforcement officer", any person employed by the state
54 or a local governmental entity as a police officer, peace officer certified
55 under chapter 590, RSMo, or serving as an auxiliary police officer or in
56 some like position involving the enforcement of the law and protection
57 of the public interest at the risk of that person's life;

58 (7) "Local governmental entity", includes counties, municipalities,
59 townships, board or other political subdivision, cities under special
60 charter, or under the commission form of government, fire protection
61 districts, ambulance districts, and municipal corporations;

62 (8) "State", the state of Missouri and its departments, divisions,
63 boards, bureaus, commissions, authorities, and colleges and
64 universities;

65 (9) "Volunteer firefighter", a person having principal employment
66 other than as a firefighter, but who is carried on the rolls of a regularly
67 constituted fire department either for the purpose of the prevention or
68 control of fire or the underwater recovery of drowning victims, the
69 members of which are under the jurisdiction of the corporate
70 authorities of a city, village, incorporated town, or fire protection
71 district. Volunteer firefighter shall not mean an individual who
72 volunteers assistance without being regularly enrolled as a firefighter.

73 3. (1) A claim for compensation under this section shall be filed
74 by the estate of the deceased with the division of workers'
75 compensation not later than one year from the date of death of a law
76 enforcement officer, emergency medical technician, air ambulance
77 pilot, air ambulance registered professional nurse, or firefighter. If a
78 claim is made within one year of the date of death of a law enforcement
79 officer, emergency medical technician, air ambulance pilot, air
80 ambulance registered professional nurse, or firefighter killed in the
81 line of duty, compensation shall be paid, if the division finds that the
82 claimant is entitled to compensation under this section.

83 (2) The amount of compensation paid to the claimant shall be
84 twenty-five thousand dollars, subject to appropriation, for death
85 occurring on or after the effective date of this section.

86 4. Notwithstanding subsection 3 of this section, no compensation
87 is payable under this section unless a claim is filed within the time
88 specified under this section setting forth:

89 (1) The name, address, and title or designation of the position in
90 which the law enforcement officer, emergency medical technician, air
91 ambulance pilot, air ambulance registered professional nurse, or
92 firefighter was serving at the time of his or her death;

93 (2) The names and addresses of the claimant;

94 (3) A full, factual account of the circumstances resulting in or the
95 course of events causing the death at issue; and

96 (4) Such other information that is reasonably required by the
97 division.

98 When a claim is filed, the division of workers' compensation shall make
99 an investigation for substantiation of matters set forth in the
100 application.

101 5. The compensation provided for under this section is in

102 addition to, and not exclusive of, any pension rights, death benefits, or
103 other compensation the claimant may otherwise be entitled to by law.

104 6. Neither employers nor workers' compensation insurers shall
105 have subrogation rights against any compensation awarded for claims
106 under this section. Such compensation shall not be assignable, shall be
107 exempt from attachment, garnishment, and execution, and shall not be
108 subject to setoff or counterclaim, or be in any way liable for any debt,
109 except that the division or commission may allow as lien on the
110 compensation, reasonable attorney's fees for services in connection
111 with the proceedings for compensation if the services are found to be
112 necessary. Such fees are subject to regulation as set forth in section
113 287.260.

114 7. Any person seeking compensation under this section who is
115 aggrieved by the decision of the division of workers' compensation
116 regarding his or her compensation claim, may make application for a
117 hearing as provided in section 287.450. The procedures applicable to
118 the processing of such hearings and determinations shall be those
119 established by this chapter. Decisions of the administrative law judge
120 under this section shall be binding, subject to review by either party
121 under the provisions of section 287.480.

122 8. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

123 (1) The provisions of the new program authorized under this
124 section shall automatically sunset six years after the effective date of
125 this section unless reauthorized by an act of the general assembly; and

126 (2) If such program is reauthorized, the program authorized
127 under this section shall automatically sunset twelve years after the
128 effective date of the reauthorization of this section; and

129 (3) This section shall terminate on September first of the
130 calendar year immediately following the calendar year in which the
131 program authorized under this section is sunset.

132 9. The provisions of this section, unless specified, shall not be
133 subject to other provisions of this chapter.

134 10. There is hereby created in the state treasury the "Line of
135 Duty Compensation Fund", which shall consist of moneys appropriated
136 to the fund and any voluntary contributions, gifts, or bequests to the
137 fund. The state treasurer shall be custodian of the fund and shall
138 approve disbursements from the fund in accordance with sections

139 **30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall**
140 **be used solely for paying claims under this section. Notwithstanding**
141 **the provisions of section 33.080, RSMo, to the contrary, any moneys**
142 **remaining in the fund at the end of the biennium shall not revert to the**
143 **credit of the general revenue fund. The state treasurer shall invest**
144 **moneys in the fund in the same manner as other funds are**
145 **invested. Any interest and moneys earned on such investments shall be**
146 **credited to the fund.**

147 **11. The division shall promulgate rules to administer this**
148 **section, including but not limited to the appointment of claims to**
149 **multiple claimants, record retention, and procedures for information**
150 **requests. Any rule or portion of a rule, as that term is defined in**
151 **section 536.010, RSMo, that is created under the authority delegated in**
152 **this section shall become effective only if it complies with and is**
153 **subject to all of the provisions of chapter 536, RSMo, and, if applicable,**
154 **section 536.028, RSMo. This section and chapter 536, RSMo, are**
155 **nonseverable and if any of the powers vested with the general assembly**
156 **under chapter 536, RSMo, to review, to delay the effective date, or to**
157 **disapprove and annul a rule are subsequently held unconstitutional,**
158 **then the grant of rulemaking authority and any rule proposed or**
159 **adopted after the effective date of this section, shall be invalid and**
160 **void.**

Section B. Because monetary support for the families of emergency
2 personnel ensures that such personnel know that their loved ones will be
3 provided for upon his or her death, it is deemed necessary for the immediate
4 preservation of the public, health, welfare, peace, and safety of this state and is
5 hereby declared to be an emergency act within the meaning of the constitution
6 and shall be in full force and effect upon its passage and approval.

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